

# **EXHIBIT "A"**



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December 7, 2022

**Via Email: lshenk@c-wlaw.com**

Lois M. Shenk, Esquire  
450 Sentry Parkway; Suite 200  
Blue Bell, PA 19422  
(610)567-0700

**Re: Torello vs. Platinum Healthcare Group, LLC; Platinum Health at Westgate, LLC  
d/b/a Westgate Hills Rehabilitation and Nursing Center et al.**

United States District Court for the Eastern District of Pennsylvania  
Civil Case No.: 2:22-cv-01271

Dear Lois,

It was nice speaking with you yesterday evening and thank you for the declination of coverage letter authored by Cozen O'Connor. As I said during our conversation, we will not dismiss this matter due to the purported absence of coverage as I am confident that any judgment obtained can be satisfied by Westgate Hills and/or its co-defendants, namely Nathan Stern, Jacob Karmel and their collection of "Apex/Global" companies. Not only are these defendants subject to individual and direct liability, but also under a theory of enterprise liability. *Mortimer v. McCool*, 255 A.3d 261, 288 (Pa. 2021). "The thrust of the doctrine is that, just as a corporations' owner or owners may be held liable for judgments against the corporation when equity requires, so may affiliated or "sister" corporate – corporations with common ownership, engaged in a unitary commercial endeavor – be held liable for each other's debts or judgments." *Mortimer* at 266.

By way of background, Mr. Torello was admitted to Westgate Hills Rehabilitation and Nursing Center (the "Facility") on April 6, 2020 for short term rehab. He was designated a fall risk. On April 8, 2020 he sustained an unwitnessed fall. On April 9, 2020 he sustained an unwitnessed fall. On April 10, 2020 he sustained a witnessed fall and was transferred to the hospital resulting in an emergent hospital admission and a diagnosis of a left cerebral convexity subdural hematoma. He never left the hospital and died on April 18, 2020. Liability is never certain, but Plaintiff will present a strong case to the jury. Westgate Hills is owned, operated and controlled by Nathan Stern and Jacob Karmel, directly and through a series of companies carrying the "Apex/Global" moniker.

As for discovery, we are under a relatively stringent case management order. Our initial discovery requests were served on August 24, 2022 and to date, we have received no documents in response. Unfortunately, I cannot delay prosecution of the case because of a coverage decision, brought about by your client's own actions. As such, we will have to proceed with

motion practice on Monday if we don't receive the documents identified in my November 21, 2022 letter. In addition, we received a copy of Mr. Torello's chart in response to a medical record request prior to filing the Complaint. It has come to our attention, however, that certain portions of his chart are missing from this production. Please provide a full copy of Mr. Torello's chart.

Further, following your production, I would like to schedule the depositions of the following individuals:

Carmella Kane

Mark Stern

Istate Mansaray

Mary Diamond

30(b)(6) Individual Most Knowledgeable about the receipt and flow of revenues into the Facility

30(b)(6) Individual Most Knowledgeable about the retention of electronic communications

30(b)(6) Individual Most Knowledgeable about Provision of Services at the Facility by Prestige Healthcare A.S. LLC

Ephraim Morris (to be subpoenaed)

Please provide some dates/your availability for the same.

In response to your request for a demand, Plaintiff demands \$1,000,000 to fully resolve her claims against your clients only. Given the absence of insurance, Plaintiff will accept an immediate tender to the MCARE fund, provided the fund pays its full \$500,000 layer of coverage. As for the primary coverage, Plaintiff will accept \$10,000 per month for 50 months so as to avoid any disruption in the operation of the Facility.

Please do not hesitate to contact me with any questions you may have.

Respectfully,

**MURRAY, STONE & WILSON, PLLC**

/s/ Matthew T. Stone

Matthew T. Stone, Esquire

[mstone@mswlawgroup.com](mailto:mstone@mswlawgroup.com)

MTS/jh

Enclosure